

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

August 15, 2001

GSBCA 15537-RELO

In the Matter of ADAM E. HILDENBRAND

Adam E. Hildenbrand, Medina, OH, Claimant.

Margaret A.H. Smith, Chief, Inbound Division, Transportation Management Center Europe, United States Army Europe and Seventh Army, APO, Area Europe, appearing for Department of the Army.

GOODMAN, Board Judge.

Claimant, Adam E. Hildenbrand, is a retired civilian employee of the Department of Defense. He has asked this Board to review the agency's decision not to extend the time during which the agency would pay for storage of his household goods (HHG).

Claimant served in Germany from 1985 to 1994. Claimant's household goods (HHG) were placed in storage in a Department of Defense facility in 1990. Claimant states that in 1994 he was transferred from Germany to Sicily. In one of his last briefings before he was transferred, he was told that his HHG would be returned to the United States from the storage facility in Germany. At that time, he lost track of the HHG. He made repeated calls to the facilities in Germany, but personnel at those facilities were not responsive to his requests for information. Claimant retired from federal service in April 1998.

Since he retired, he has received two shipments of HHG through the Inbound Section for HHG at Wright Patterson Air Force Base (AFB) in Dayton, Ohio. However, these two shipments did not include all of his HHG. He presumed that the remainder of the HHG was not in Germany, since his previous repeated inquiries had not been answered. The Wright Patterson HHG section searched all data bases and was unable to locate the remainder of the HHG. Claimant was told that there were Government storage facilities in Bayonne, New Jersey, and Baltimore, Maryland, where he also inquired, but the remainder of his HHG was not found.

In December 2000, claimant was notified by letter dated December 15, 2000, that the remainder of his HHG was still in a storage facility in Germany, but his entitlement to storage had expired on September 30, 2000. According to the agency, the storage documentation indicates that authorization was given to store the HHG until September 2000.

However, the agency has now indicated that this authorization was in error, and that authorization should have been given to store the HHG only until August 1998. His entitlement to storage therefore expired on August 1, 1998. The agency asserted that the total cost of storage of the HHG was \$1476.39, from August 1, 1998, through January 31, 2001, and that each additional month will cost \$37.22. The agency maintained that claimant is obligated to pay these costs. In addition, according to the agency, since entitlement to shipment expired two years ago, claimant is no longer entitled to have the Government ship the remainder of his HHG to the United States.

Accordingly, the agency advised claimant that his options were to 1) advise the agency that he no longer wanted his HHG (in which case the agency would dispose of them), or 2) pay the storage costs and arrange for the movement of the HHG at claimant's own expense. The agency sent claimant an estimate from a shipping company in Germany in the approximate amount of \$4000.

The claimant asserts that he used all available means to locate this last portion of his HHG, and could not find it. The agency asserts that claimant failed to make all reasonable efforts to locate his property:

The documentation that we have on hand suggests that Mr. Hildenbrand did not try to locate his property nor did he make valid attempts to have his property items released and shipped, to a location of his choice. If he did in fact work with Wright Patterson AFB to find his property, why did he not tell them he spent most of his career in Europe and that his property was originally placed in storage in Berlin? The only places he looked for his property were in the United States. Why not look in Europe? There is only one long-term storage facility in Europe. The Traffic Management Officer at Wright Patterson AFB is aware of this. It would only have taken a phone call. Further, Mr. Hildenbrand signed the paperwork to have his property moved to Giessen.

Discussion

Claimant received two shipments of HHG after he retired from federal service and returned to the United States. After diligently searching for the remainder of his HHG, he was notified by his agency that the remainder of the HHG had been in storage in Germany, but entitlement to storage and shipment had expired.

The Joint Travel Regulations (JTR) supplement the Federal Travel Regulation (FTR) and apply to civilian employees of the Department of Defense. The relevant provisions of the JTR read as follows:

1. General.

HHG transportation from the OCONUS [outside the continental United States] area must begin as soon as practicable after the employee's effective date of . . . return from separation. If practicable, HHG transportation is concurrent [with the] employee's departure or [as] soon afterward as appropriate transportation is available.

. . . .

3. Return for Separation.

When an employee is being returned for separation, HHG transportation entitlement is forfeited if not used within a reasonable time after separation. . . . Upon arrival in the U.S., HHG transportation is authorized provided the movement to the final destination is begun within 2 years from the effective date of the employee's separation.

JTR C8003-I (Jan. 1, 1998).

Contrary to the agency's assertions, we find that both claimant and the Wright Patterson Transportation Office made numerous efforts to locate the remainder of claimant's HHG, in an attempt to have the shipment made as soon as practicable. The agency offers no explanation as to why the remainder of claimant's HHG were held in storage for more than two years after the expiration of the storage period with no attempt to notify claimant, while two prior shipments of the HHG were made. In fact, the Government initially concluded in its letter dated December 15, 2000, that the storage period had expired in September 2000. Thus, the first written notice that claimant received as to the remainder of his HHG was a notification that the storage period had expired.

Under the above regulation, claimant is entitled to have the Government transport his HHG to his current residence. The above regulation states that HHG entitlement is forfeited if not used within a reasonable time (not to exceed two years) after separation, and is authorized upon the employee's arrival in the United States provided the movement to the final destination is begun within two years from the effective date of the employee's separation. The entitlement to shipment of the HHG was used within the period of two years after separation, and shipment of claimant's HHG was begun within two years of his separation, as he received two shipments during that period. The fact that the third and final shipment has been delayed was through no fault of claimant, and claimant is entitled to have

the shipment made at Government expense. He is also not obligated to pay the storage fees that the agency claims have accrued to date.

Decision

The claim is granted.

ALLAN H. GOODMAN
Board Judge